

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

“Joint Employers” in Agriculture

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I. Background:

Employers are required to provide for the safety and health of their employees under Title 49.17 RCW, the Washington Industrial Safety and Health Act (WISHA). In certain circumstances, however, questions can be raised as to who actually plays the role of the employer. One area of recent concern is the question of "joint employers" in agriculture, particularly in relation to field sanitation requirements.

In April of 1994, the federal Occupational Safety and health Administration (OSHA) issued its interpretation of the application of field sanitation standards to "joint employers."

II. Scope and Application:

This WISHA Regional Directive, which will remain in effect indefinitely, provides guidance to WISHA consultation and compliance staff regarding "joint employers" in agriculture. This WRD incorporates the substance of WISHA Interim Interpretive Memorandum #96-11-P, which is hereby rescinded.

III. Interpretive Guidance:

A. Who should be considered a "joint employer"?

WISHA staff must treat as a "joint employer" any grower association or other organization that recruits, hires, issues work orders and provides labor to agricultural employers. Whether such a joint employer is cited for a particular violation must be determined on a case-by-case basis in accordance with the following guidelines (staff may wish to consult WISHA Policy & Technical Services in relation to a specific case):

1. Such joint employers must be cited for identified violations if the association or organization has control or the ability to control employee tasks or assignments *and* knows (or should know) of the unsafe conditions or hazardous exposures in question.

2. In the event that a joint employer is cited, staff should also be aware of any appropriate citations to the employer actually using the laborers (in many cases, *both* employers are appropriately subject to citation for the same underlying violation).

Michael A. Silverstein, Assistant Director
WISHA Services Division
Department of Labor and Industries
Post Office Box 44620
Olympia, Washington 98504-4620

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